

**PUBLIC MEETING**  
**April 10, 2001**

Chair Karolin J. Loendorf called the meeting to order at 9:00 a.m.

Commissioners Murray and Varone were present. Others attending all or a portion of the meeting included Sharon Haugen, Ron Alles, Robert Rasmussen, Stephen and Connie Kologi, Gregg Winston, Gerald Clay, Ralph Peck, Kent Robinson, Patricia Burke, Robert Cline, Lynora Wieferich, Charles VanGenderen, Anthony Perpignano, Larry Marshall, Leo Miller, Kevin Forkan, Donna Forkan, Ann Purcell, Dean Retz, Bruce Suenram, Ron Yuhas, Shawn Bryant, Leonard Ennis, LaVerne Yuhas, Aaron and Kathie Helfert, Randy Christiansen, Eric Griffin, Janet Pallister, Barb Leland, Dick Henderson, Max Milton, David McClain, Ronald C. Bone, and Kim Ingwaldson.

Minutes. There were no minutes to approve.

Continuation of Planning and Zoning Commission Meeting of March 22, 2001. The Commissioners will consider rendering a decision on the proposed zone change in County Special Zoning District No. 2. The property is generally known as Golden Estates No. 3 Subdivision. Jerry Grebenc reported that the applicant is requesting a zone change for property currently zoned A-1 Agricultural Transition and R-1 Single Family Residential in SZD 2. The applicant would like to rezone the property to R-3 High-Density Residential. The applicant has also requested a zone change for part of the property from an R-1 designation to a B-2 designation. In a letter received yesterday from the applicant, Mr. Yuhas requested that the change from R-1 to B-2 be withdrawn and he would like to rezone the property to R-3. The applicant, Ron Yuhas, was present.

Commissioner Murray moved that the Commission table the Planning and Zoning Commission decision until the subdivision is heard, later in today's agenda. Commissioner Varone seconded the motion and it carried unanimously.

Commissioner Varone moved that the Commission render a final decision Thursday, April 12, 2001 at 9:00 a.m. in room 309. Commissioner Murray seconded the motion and it carried unanimously.

Consideration of Creation of the Bel Air Rural Improvement District No. 2001-1 for the Purpose of Equitably Funding Road Improvements and Maintenance Within Said District. Robert Rasmussen reported on the status of protests received. The 15-day protest period and the calculation of protests received resulted in 60% of the cost of the improvements and maintenance were protested. This amount of protest was sufficient to prevent the Commission from establishing a resolution to create the district. The Commission opened the public hearing.

Gerald Clay, 1145 Cheyenne Road, protested the RI D. Mr. Clay stated that the snow piled in the center of the road during the winter months caused severe damage to the road and believes it was the county's responsibility to properly remove the snow.

Jim Nelson, 1007 Cheyenne Road, protested the RI D. Mr. Nelson believes it is the county's obligation to carry on the responsibility of its predecessors.

Hearing no other public comments, the Commission closed this portion of the hearing. Commissioner Murray moved that the county certify the protests being adequate to prohibit an RI D for the Bel Air Subdivision and that the Bel Air RI D be denied. Commissioner Varone seconded the motion and it carried unanimously.

Commissioner Murray moved that the county not provide any additional hard surface maintenance in the Bel Air Subdivision. Commissioner Varone seconded the motion and it carried unanimously.

Consideration of Creation of the Big Sky Rural Improvement District No. 2001-2 for the Purpose of Equitably Funding Road Improvements and Maintenance Within Said District.

Robert Rasmussen reported on the status of protests received. The 15-day protest period ended April 3. Staff calculated the protests received to represent 72% of the costs of the proposed work. This amount of protest was sufficient to prevent the Commission from establishing a resolution to create the district.

The Commission opened the public hearing.

Steve Kologi, 538 Toole Court. Mr. Kologi feels they have all the maintenance they need. The patching truck services the area 1 hour per year. He would rather see more surface maintenance and less snow removal. He would be in favor of capital improvements.

Ralph Peck, 650 Stadler Road. Mr. Peck discussed options that potentially could be looked at that would lower the cost to the homeowners. Liability is an issue and would like to have good maintained roads in the subdivision, and continue to invest in the infrastructure at a proper level and the residents can afford to participate in.

Dave McClain, 5043 Dimsdale Road. Mr. McClain opposed this proposal because he feels the county has reneged on the agreement to put up more money to create the improvements and get out from the responsibility to maintain that subdivision. If the county continues to do the maintenance, the homeowners would be willing to consider some other type of improvement at some other level of cost.

Hearing no other public comments, the Chair closed this portion of the hearing. Commissioner Murray moved that the Commission deny the proposed RI D based on the results of the protest. Commissioner Varone seconded the motion and it carried

unanimously.

Commissioner Varone stated that the county work with a citizens group to come up with something equitable and workable within that district.

Commissioner Murray stated that the residents should form a homeowners association and present a proposal to the county regarding the level of maintenance and improvements. The Big Sky No. 1 and 2 Homeowners' Association having made an informed decision on their hard surface, Commission Murray moved that the county discontinue all hard surface maintenance, but continue all other maintenance the county has provided in the past. Commissioner Varone seconded the motion and it carried unanimously.

Consideration of Creation of the Schmidville Rural Improvement District No. 2001-3 for the Purpose of Equitably Funding Road Improvements and Maintenance Within Said District. Robert Rasmussen reported that the resolution of intent followed the statutory procedure of the 15-day protest period. The protest is 13.64 percent of the cost of the proposed work. This is not sufficient protest to bar proceeding on the creation of the proposed district. If the Commission approves the draft resolution to create the district, at some point in the near future, staff will schedule a rate hearing.

The Commission opened the public hearing.

Kent Robinson, 810 Vallejo Road. Mr. Robinson reported that over the last several years the road has deteriorated and has become a safety issue. Drivers are watching for potholes than they are for the children and family pets. He is in favor of getting the road maintained to its proper condition because it will improve property values and the safety of the area.

Martin Powers, 740 Lydia Road. Mr. Powers is not in favor of the RID. The original proposal involved pavement of the entire district. Now the proposal is to do an overlay and do some work on the shoulders on Vallejo. This has caused some confusion with the residents in the district. Mr. Powers suggested that the county hold a public meeting in the evening to explain the proposal to the residents.

Mr. Rasmussen stated there were some language changes in the resolution, but those changes did not change the original intent.

Mr. Griffin stated there were no changes since the meeting at Rossiter School. Vallejo was to be hard surfaced as written in the draft resolution. The single shot of chip seal may not have been included in the material that was handed out at the meeting. The level of service is greater in this resolution than what was presented. The gravel roads will remain gravel. The maintenance costs in the final resolution is less than compared to what

was proposed at the school meeting.

Kevin Forkan, 905 Vallejo Road. Mr. Forkan's concern is that Sandy Road and East Lydia Road are private roads and will they be brought in under this RID or do they remain private?

K. Paul Stahl stated the county does not improve private roads. If the roads are included, they are legally considered public or county roads. Therefore, the county has determined that those roads are not private.

Mr. Forkan asked if the protest failed would maintenance continue as in the past? Commissioner Murray stated that the professional engineering opinion states the roads are worn out and the county should not fill potholes. If the protest failed, maintenance will continue as is with the exception of hard surface maintenance.

Hearing no other public comments, the Commission closed this portion of the hearing. Commissioner Murray moved that the commission approve the resolution and authorized the Chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Amended Plat, Hoff Minor, Lot 1 Amended. The applicant proposes to create five lots, each for one single-family dwelling. The proposal is generally located east of Lake Helena Drive, approximately 1 ¾ mile north of York Road. The applicant, Randy Christiansen, was present and indicated his willingness to proceed. Robert Rasmussen presented the staff report. There is a change in the staff report. The soil number designation 538C is correct, but the name has been changed to Assinibone-Chinook, not Sappington-Musselshell. An on-site wastewater treatment facility is proposed and has slight constraints. A petroleum pipeline is located on the western portion of the property affecting lots 1A and 1D, and this area is restricted from development. A weed management plan will be required. There is seismic activity in the area and seismic construction will be required. Staff recommended approval of the proposed subdivision subject to 15 conditions as outlined in the staff report.

Dean Retz, 1430 Shirley Road, representing the applicant. In response to Commissioner Varone's question on the cost of bacteria testing, Mr. Retz stated that DEQ charges \$10 for a nitrate test, and \$25 for both a nitrate and coliform test. The applicant would reword conditions of approval 5 to read: The applicant shall improve Emerald Ridge Loop Road to the specifications required by the County Subdivision Regulations (Typical Section 3, Peccia) to the intersection of Emerald Ridge Loop Road and the internal access road. The applicant concurs with the remaining conditions.

Randy Christiansen, 2715 Elkview Drive, East Helena. Mr. Christiansen stated that the roads in the subdivision are in excellent condition. The roads have been maintained by

Floyd Hoff and will continue to do so if the proposal is approved.

Hearing no public comments, the Chair closed this portion of the hearing. Commissioner Murray moved that the Commission render a final decision Thursday, April 12, 2001 at 9:00 a.m. in room 309. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat, K & R Major. The applicant proposes to create 52 lots, 46 lots for single-family dwellings and 6 lots for commercial use. The proposed subdivision is generally located north of Old Highway 12 East, east of and adjacent to Kalispell Street and west of and adjacent to Oaks Street. The applicant, Aaron Helfert, was present and indicated his willingness to proceed. Michael McHugh presented the staff report. One letter received was concerned about the possibility of mobile homes being placed on the site. The sanitary sewer facility will be provided by the City of East Helena, per an agreement with a previous developer. The water system will be connected to the City of East Helena public water supply system. All of the internal streets will be asphalt and eventually the city of East Helena will take over the maintenance of these streets. The applicant would be required to pave Oak Street from the intersection of Old Highway 12 to approximately 30 feet north of Oak Street and Clinton Street. Staff recommended a limit to the approaches onto Highway 12 and a no-access restriction be placed along the borders of Kalispell and Oak Streets. Fault lines are located within 2.5 miles of the subject property and staff has recommended that all construction be done in compliance with the UBC code. The applicant has proposed to use a combination of both parkland dedication and a cash payment in lieu of parkland dedication. The City of East Helena has required the applicant to donate the cash payment in lieu of parkland dedication to the City of East Helena in accordance with their Resolution 312. The parkland dedication that would be dedicated to the county would be equivalent to the market value of 1.81 acres. Staff has recommended approval of the proposal subject to 16 conditions. The Consolidated Planning Board also recommended approval of the proposal.

Aaron Helfert, 805 Onyx, East Helena. Mr. Helfert stated this development would offer affordable housing to the area. He stated he concurs with the conditions as recommended.

Hearing no public comments, the Chair closed this portion of the hearing. Commissioner Murray moved that the Commission render a final decision Thursday, April 12, 2001 at 9:00 a.m. in room 309. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat, Golden Estates III Major. The Commissioners will consider creating 40 lots for single-family dwellings and two lots for commercial use. The proposed subdivision is in the NE1/4 of Section 18, T10N, R3W. The proposed subdivision is located east of McHugh Lane and south of Faw Road. The applicant, Ronald Yuhas, was present and indicated his willingness to proceed. Jerry Grebenc presented the staff report. The property has previously been used as a gravel mining

operation, but is now closed and due for reclamation. The applicant is requesting that his property be rezoned from A1 and R1 to R3 single-family residential high density. The applicant has also requested that a portion of the property be rezoned from R1 to B2 commercial. The Planning and Zoning Commission met and recommended approval and the BoCC deferred to today to render a final decision. Staff was informed that certain wells had gone dry in the area. The internal access roads will be privately maintained. The county maintains McHugh Drive. If this proposal is approved and final platted, the subdivision should be annexed into the existing RID in order to fund the maintenance of proposed internal access roads. This proposal provides two ingress and egress routes. The West Valley Fire Department recommended that the applicant provide adequate water supply for fire suppression and add a covenant requiring buildings constructed on multi-family and commercial lots have fire sprinklers or that the applicant install water supply in storage. A detailed storm water drainage plat is required. The proposal appears to conform to county subdivision regulations. A parkland dedication is required. The applicant has expressed a preference for cash in lieu of parkland dedication and a community area will be provided for the residents of the community to establish a local park in the approximate area of 1.9 acres, which would also serve as a subsurface wastewater treatment systems. Staff recommended that an additional condition of approval be included requiring the applicant to submit an appraisal for cash in lieu of parkland dedication. The Consolidated Planning Board approved the proposal with amendments.

Ron Yuhas, 3653 McHugh Drive. Mr. Yuhas displayed color photographs of the existing Golden Estates II. He stated that the subject proposal is located in the area that the Comprehensive Plan has identified as an urban growth area. The residents prefer to have individual mailboxes in front of their homes instead of a mailbox cluster. He can reduce the noise from the gravel pit by adding vegetative planting to make the area more appealing. He will work with the fire district on a fire suppression plan. There is a need for quality homesites close to Helena, and this proposal will look similar to the Golden Estates II project. He has considered his subdivision being annexed to the City of Helena.

Shawn Bryant, Stahly Engineering, representing the applicant. Discussed the applicant's zoning request. The R1 parcel belongs to Mr. Yuhas. Helena Sand and Gravel is in the process of reclaiming the gravel pit on the property. This proposal fits with the rest of the neighborhood. Mr. Bryant discussed his research on why the one well in the area went dry.

Anthony Perpignano. Mr. Perpignano addressed the issue of the B2 rezoning. The residents formed a zoning district in the subject area before the applicant planned this proposal. The zoning district is considered a "level of comfort" for the residents. He opposes the B2 rezone.

Bruce Suernam, representing West Valley Fire District. The fire district agrees with the

applicant's characterization of the water supply. He supports the applicant's position to remove the B2 zoning on the two lots, and supports the Planning Board's recommendations for this project.

Hearing no public comments, the Chair closed this portion of the hearing. Commissioner Varone asked that a recommendation and a commitment from the Commission that no other subdivisions will be considered, reviewed, or approved until the special zoning district is revisited and updated.

Commissioner Varone moved that the Commission render a final decision Thursday, April 12, 2001 at 9:00 a.m. in room 309. Commissioner Murray seconded the motion and it carried unanimously.

Request for a One-Year Extension Request for an Improvements Agreement for the H&L Major Subdivision. The Applicant is Shawn Toney of H& L Drilling. The subdivision is located north and adjacent to Highway 12, east of East Helena. Jerry Grebenc reported that the applicant bonded and did an improvements agreement for the outstanding improvements which expires April 12. The applicant has requested an extension and has submitted a letter of credit to cover the cost of the improvements. Staff recommended approval of the extension. Commissioner Varone moved that the Commission grant a one-year extension to April 7, 2002. Commissioner Murray seconded the motion and it carried unanimously.

Request to Postpone the Public Hearing and Request an Extension of the Review Period until May 18, 2001 for the Broadwater Estates Minor Subdivision. Jerry Grebenc reported that the applicant, Steve Yakawich, may modify the subject proposal and therefore requested additional time to meet with engineers. Commissioner Varone moved that the Commission grant the applicant's request to postpone the public hearing and an extension of the review period until May 18, 2001. Commissioner Loendorf seconded the motion and it carried unanimously.

Encroachment Agreement for Long Butte Road Right-of-Way for Three Rivers Telephone. Sharon Haugen reported that the standard agreement is for a telephone communication network on Long Butte Road subject to the conditions as outlined in the agreement. Staff recommended approval. Commissioner Varone moved that the Commission approve the encroachment agreement and authorized the Chair to sign. Commissioner Murray seconded the motion and it carried unanimously.

Resolution Ordering a Refund of Taxes and Assessments Paid. (cont. from 4/5/01). Ron Alles reported that Artisan LLP has requested a refund in the amount of \$779.97 due to an erroneous assessment. Commissioner Varone moved that the Commission grant the refund to Artisan LLP and authorized the Chair to sign. Commissioner Murray seconded

the motion and it carried unanimously.

There being no other business, the meeting adjourned at 1:20 p.m.